

**Texas Juvenile Justice Department
Response To The Independent Ombudsman
Third Quarter Report, Fy 2013**

July 3, 2013

The Texas Human Resources code, Section 261.060, provides that the Office of the Independent Ombudsman (OIO) shall accept comments from the Texas Juvenile Justice Department (TJJD) for the OIO quarterly reports. The Code also provides that TJJD may not submit comments after the 30th day after the date of the report. TJJD received the Third Quarter Report on June 21, 2013.

The Third Quarter report identified OIO activities for March 1, 2013 through May 31, 2013 with the main focus on summarizing OIO activities. The report briefly summarized the following observations, noting:

- The Office of the Independent Ombudsman closed 93 cases during this reporting period and of those, 36 cases were founded.

The report also summarized the contents of a special report resulting from a request of advocacy groups to “conduct an in-depth analysis of violence in the state juvenile justice system.” The report, **Understanding and Addressing Youth Violence in the Texas Juvenile Justice Department**, was a collaboration between the OIO and the LBJ School of Public Affairs at the University of Texas. The report recognized the improvements underway within the agency and that youth generally report feeling safe within facilities. However, it also raised the following concerns for the OIO:

- Youth violence and disruptive behavior are ongoing and increasing problems, as are non-violent major rule violations. TJJD appears to have a problem with managing youth behavior generally, not just a problem with violence.
- To date, youth violence has been treated as a short-term crisis to be solved, rather than as a long-term, chronic issue to be managed through comprehensive and proactive approaches to behavior management.
- Different types of behavioral problems predominate at each TJJD facility, suggesting a lack of consistency in the way programs and procedures are implemented across the agency.
- The Corsicana facility for youth with serious mental illness has by far the highest levels of youth violence and disruptive behavior in TJJD, calling into question the effectiveness of this setting for a treatment purpose.
- Security units are vastly overused as a behavior management tool, and the data suggest that the placement of youth in these punitive settings may in fact be contributing to misbehavior rather than deterring it.

General Updates

We concur with the OIO that improvements have been made in the overall safety of youth and staff and that many of these improvements were because, “youth violence has been treated as a short-term crisis to be solved.” Although there is long-term work

to be done in the area of behavior management, any progress in decreasing youth violence is positive. The agency has noted some positive outcomes reflected in these areas:

- **Worker's Compensation:** So far in FY 2013, the agency has averaged 36 claims per month, lower than the FY 2012 average of 51 per month. There has been a significant reduction in the average number of claims due to aggression. In FY 2013 there have been 24.5 aggression claims per month compared to FY 2012 which averaged 36.8 aggression claims per month, a 33% decrease. More impressively, during the 3rd quarter, the agency experienced the lowest number of aggression-related claims in its history. The agency's FY 2013 projected annual Injury Frequency Rate (IFR) is 15.60 (aggression 10.64, industrial 4.96) and is a decrease from the FY 2012 IFR of 21.69. So far this fiscal year, injuries occurring due to restraint account for 75.56% of the aggression claims; injuries due to youth assault account for the remaining 24.43%. During the month of May, six (6) of the 23 aggression claims occurred during an assault.
- **Phoenix:** The Phoenix program will mark its one-year anniversary in July. Although the program was established with the intent to serve a population of 24 youth, it has operated with less than 16 youth since its inception. As of July 1, 2013, a total of 47 youth have been admitted to the Phoenix program with 34 youth completing the program, and one youth transferring to prison while in the program. There are currently 12 youth admitted to the program. Since its inception, a total of 14 youth have completed their GED in educational services while admitted to the program. Recently a youth admitted to the Phoenix program scored in the 99th percentile for his scores in reading and math on two of five sections of the GED. His reading score was 800 of 800 which is a rare accomplishment. During the third quarter, there were no incidents of assault causing bodily injury to staff within the Phoenix program. During that same timeframe, use of a Chemical Agent ("pepper spray") in the program decreased and there were no incidents involving the use of pepper spray in the month of May. In total, there has been only one worker's compensation claim in the Phoenix program. That claim occurred in October 2012, resulted in no lost work time and cost the agency a very minimal amount.
- **Corsicana (CRTC):** Although concerns about level of violence and disruptive behavior at CRTC are shared by TJJD, there have been significant improvements at that facility in the area of self-harm and other types of injury. At the start of the fiscal year, Corsicana was performing poorly with high rates of overtime, high injury frequency rates and significantly high youth self-injury rates. Since November 2012, all of those performance indicators have been reduced significantly. Corsicana now has the second lowest employee injury frequency rate after starting the fiscal year with the highest employee injury frequency rate. Corsicana has the third highest overtime cost for FY 2013 but has reduced the monthly expenditure on overtime from a high of \$160,000 in a month at the beginning of the fiscal year to \$10,000 in May. Data provided by UTMB shows

that, during FY 2013, CRTC has reduced the rates of Emergency Room visits, non-suicidal self-injury, and treatment of all types of injuries. Most impressively, in the area of medical treatment for injury resulting from altercation, CRTC has reduced its rate to FY 2010 rates and in the 3rd quarter had a rate equivalent to the other facilities. Nevertheless, concern about the provision of services to youth with significant mental health issues at CRTC remains. On page 110 of the report, **Understanding and Addressing Youth Violence in the Texas Juvenile Justice Department**, author Michele Deitch recommends to the Legislature that they, “*should fund a new option for housing youth with serious mental illness in lieu of the continued use of the Corsicana facility for this purpose*” (Deitch, 2013). The agency is currently exploring those options and has recommended that the Corsicana facility be closed.

Behavior and Treatment Task Force

The Behavior Management and Treatment Task Force, established in December 2012, continues to work diligently to enhance youth services, improve youth culture and create a meaningful treatment program which addresses individual youth needs while ensuring youth accountability and positive youth development. Subcommittees were established to encompass all areas of programming within state-operated programs and services:

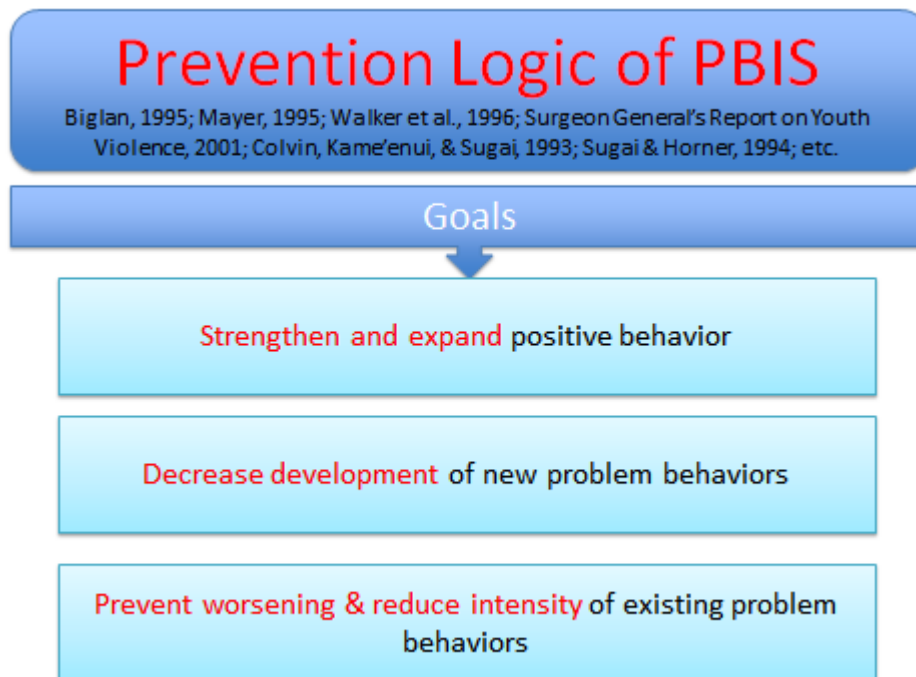
- Behavior Management
- Treatment Redesign
- Accountability
- Communications and Marketing
- Transition and parole services
- Training

Early accomplishments of the committees include development and implementation of policies that allow for reduction of minimum length of stay for more youth as a powerful incentive, stage demotion as a consequence for youth who engage in major rule violations, selection of Positive Behavior Interventions and Supports (PBIS) as the agency’s new behavior management model, establishment of a communication system to solicit staff input and provide feedback on progress of the task force, and development of oversight systems for use of electronic monitoring on parole. The subcommittees have many other initiatives underway which will move the agency forward concurrently with implementation of legislative mandates from the 83rd legislative session.

Positive Behavior Interventions and Supports (PBIS)

Established in 2001 in response to Senate Bill 1196, the Texas Behavior Support Initiative (TBSI) was designed to build capacity in Texas schools for the provision of positive behavioral interventions and support (PBIS) to all students. The goal of PBIS was originally to enhance the capacity of schools to educate all students, especially students with challenging behaviors, by adopting a sustained, positive, preventative instructional approach to school wide discipline and behavior management. Simply put, PBIS is a strategy focused on prevention of problematic behavior by locally managing

environmental reinforcements (instruction, triggers, rewards, consequences, etc.) with the intent to create a safer, even enjoyable, climate for operations.



House Bill 3689 from the 81st Legislative Session required the implementation of Positive Behavioral Supports and Interventions (PBIS) in the Texas Juvenile Justice Department (TJJD) [formerly Texas Youth Commission] in its educational programs, with an implementation status report due December 1, 2010, and an effectiveness report due December 1, 2012. HB 3689 tied students' successful participation in PBIS, as defined by agency rule, to parole eligibility. The agency adopted a general administrative policy (GAP 380.9155) in September 2010 to meet this requirement.

When the legislation was initiated during the 81st legislative session in 2009, nine secure facility schools participated in PBIS implementation. Formal training of all Education staff in all PBIS components was held January 3, 2011. Since that time, students have formally received direct, proactive instruction in desired behavioral skills on a regular basis. The evolution of programming elements in the educational setting continues to be a focus at each campus. A comprehensive report, authored in December 2012, provides statistical analysis satisfying statutory requirements and includes discussion on program elements, considering comparative data for the current school year and those prior (pre-PBIS : post-PBIS).

The report is posted at:

<http://www.tjjd.texas.gov/publications/reports/PBISLegislativeReport2012-12.pdf>

The reports states that implementation of PBIS in the educational setting appears to be having an impact on the behavior and academic outcomes of youth in secure facilities. Significant findings regarding the effectiveness of PBIS in TJJD include:

- The number of incidents, both minor and major, are four times higher in non-school settings than in school, where PBIS has been implemented;
- The percent of incidents with youth eligible for special education services has decreased, and the percent of Security admissions for these students is the lowest it's been since 2009;
- The percent of disciplinary referrals for Hispanic and Anglo students is the lowest it's been since 2009;
- The percent of disciplinary referrals involving physical and mechanical restraint has decreased to the lowest levels since 2009;
- Average Daily Attendance has increased; and
- Academic performance has increased in all categories of measured outcomes.

The systemic and anecdotal data suggests that PBIS has been effective in curtailing an upward trend of problematic behaviors in TJJD schools, and in promoting a continuum of pro-social behavior that has improved academic performance of students. As a result, the Behavior and Treatment task Force identified this model as the framework for the facility-wide behavior management model and TJJD has developed strategies for continuance of PBIS focus in the next biennium. These strategies are aligned with the agency's mission, as well as the mission of the TJJD division of education to impact students' lives and ensure their success.

Adopting PBIS is consistent with the recommendation made by the OIO and the recommendations made in the report, **Understanding and Addressing Youth Violence in the Texas Juvenile Justice Department**. To this end, an implementation plan was presented to executive management on June 14, 2013. The PBIS Leadership Team, responsible for overseeing the PBIS implementation plan, was subsequently established and a PBIS Coordinator was designated. The PBIS Coordinator and Leadership Team received an initial PBIS overview training on June 20, 2013. The training was held at Texas State University and was administered by Dr. Brenda Scheuermann. The Leadership Team will continue to meet on a bi-weekly basis, during which time they will facilitate the development of the agency's PBIS model and provide oversight for implementation. It is critical that PBIS fit coherently with other TJJD programs, and that all are streamlined as much as possible. As noted in the IO's report, "lack of consistency in the way programs and procedures are implemented across the agency" must also be guarded against.

It is estimated that TJJD will have a facility-wide PBIS model developed by October 31, 2013. Following that, the Phase II, Universal Level Planning phase will begin. During this phase, facility internal coaches and facility PBIS teams will be appointed and block training of all staff will commence. Phase III universal implementation phase is July 1, 2014. This is the foundation for PBIS. It contains components such as behavior expectations for all areas and activities, acknowledgement systems, and consequences for misbehavior. To help ensure the fidelity of implementation, the universal level will

remain in place for approximately 60 days before the roll-out of the more complex tier 2 and tier 3 systems by September 1, 2014.

With all tiers functional by September 1st, the remainder of the calendar year will be dedicated to the sustainability and evaluation phase. During this phase, TJJD will develop sustainability plans and evaluate PBIS effectiveness, fidelity, and social validity. It is estimated that all PBIS policies will be formalized by December 31, 2014, after which time implementation will be considered complete and the agency will proceed with monitoring and control.

PBIS as implemented nationally typically takes 3-5 years for a full rollout. Ultimately, with successful implementation the result is the support of a positive climate and culture in which treatment programs can work more effectively. TJJD's PBIS sustainability plan includes orientation and on-going training for students and staff, a robust data management system for continued team-based decision making, quality and timely interventions, and continued partnerships with institutions of higher education for guidance and implementation fidelity.

TJJD continues to appreciate the efforts of the OIO to ensure safety and security is maintained for TJJD youth and staff. We will continue to make systemic improvements that will enable youth to be successful in rehabilitation efforts and provide a safe and rewarding working environment for staff. We welcome the input of the OIO in the development and roll out of the PBIS model over the next fiscal year.